

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

September 2, 2004

A meeting of the Board of Environmental Protection was held on Thursday, September 2, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

**Board:** Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell, and Matt Scott

**Absent:** Virginia Plummer, Nancy Ziegler and Jean T. Wilkinson

<b><u>Staff:</u></b>	Bureau of Air Quality	Ron Severance
	Bureau of Air Quality	Lynne Cayting
	Bureau of Land and Water Quality	Dana Murch
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Robin Clukey

**Others:** David Littell, Deputy Commissioner  
Peggy Bensinger, Assistant Attorney General  
Cynthia Bertocci, Executive Analyst  
Terry Hanson, Administrative Assistant

*(Meeting adjourned at approximately 12:30 p.m.)*

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:** Deputy Commissioner David Littell reported the following:

- Budget: *General Fund Budget* – The State of Maine is facing a challenging fiscal situation that will result in the filing of 3 fiscal scenarios submittals: (1) a September 1<sup>st</sup> scenario reflecting no changes to the budget – maintain current services; (2) scenario will reflect level funding (using last years general fund amounts – which will mean program cuts due to increases to retirement, merit increases and health costs); and (3) scenario fund reflecting deeper cuts in addition to level funding (this will involve looking at programs and possible reorganization to capitalize on resources).

*Shortfall Budget* – Additional decreases to the Department's budget from dedicated funding in the Bureaus of Air Quality and Land and Water Quality in their compliance, licensing and enforcement programs represents a 15 to 18 percent reduction for next biennium. Increase cost to run government programs resulting in growing costs to health care and retirement outgrow the revenue supported through fees. The Department has convened a stakeholder group to address program issues and to identify operational support options that are funded largely through dedicated revenue (fees through regulated community).

Penobscot River: The Department responded to the report of an algae bloom in the Penobscot River July – August which included the Dolby Pond flow way. The Department has been monitoring the unusual occurrence and concluded that no impact to species in the river resulted in the bloom. Causes for the bloom may be related to publicly owned wastewater treatment facilities or the nearby Katahdin paper. The Department has been working with the mill to examine contents of their discharge and phosphorus reductions at that facility.

Questions: Staff attorney Ms. Bensinger asked about the cause in the shortfalls within the Bureau of Land and Water Quality.

*The increase cost to provide government services were not taken into account when the application fees for that program bureau were established. Additionally, company bankruptcies contribute to the loss of fees to both program bureaus and pollution reductions reduce fees. Staff workload to manage those facilities does not reduce.*

**B. CHAIRMAN'S COMMENTS:** The Board will maintain a quorum until noon today.

**C. EXECUTIVE ANALYST COMMENTS:** None

**D. BOARD CALENDAR:**

Board workload this fall is heavy and members are asked to keep staff informed of their schedules. Additionally, Board members should also hold November 17-18, 2004 in their schedules for public hearing on IFW boat ramp project at Mere Point in Brunswick.

**E. DEPARTMENTAL ORDERS:** Reviewed

**F. EXECUTIVE SESSION:** None

## **II CONSENT AGENDA ITEMS**

The Board voted (6-0-0-3) to approve agenda items 1, and 2 as presented

*Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell, and Matt Scott voted to support the motion. Board members Virginia Plummer, Nancy Ziegler and Jean T. Wilkinson were absent*

1. ELIOT BUSINESS PARK, INC., and ELIOT BUSINESS PARK II, INC., - Eliot – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
2. DANA E. HALL, Berwick – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

## **III. Regular Agenda**

1. EVERGREEN WIND POWER FARM (appeal by Maine Audubon)  
Staff: Robin Clukey, Bureau of Land and Water Quality

The Board voted (6-0-0-3) on a motion to table this item and direct Department staff to modify the draft proposed Board order to include language that modifies the pre-construction observations and studies for consideration at the next regular meeting. The vote was taken pursuant to 38 M.R.S.A., Section 341-D, Section 344 and 480 A through Z and 06-096 CMR Chapter 2.

*Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell, and Matt Scott voted to support the motion. Board members Virginia Plummer, Nancy Ziegler and Jean T. Wilkinson were absent.*

2. CHAPTER 127, NEW MOTOR VEHICLE EMISSION STANDARDS REGULATIONS / AMENDMENTS (post to public hearing)  
Staff: Ron Severance, Bureau of Air Quality

The Board voted (6-0-0-3) on a motion to hold two separate public hearings on amendments to Chapter 127, New Motor Vehicle Emission Standards Regulations (1) California Heavy Duty Diesel Emission Standards and (2) Zero Emission Vehicle Program (ZEV) on October 7, 2004 and established October 18, 2004 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, Section 585, Section 585-A, Section 585-D, and the 1990 Clean Air Act Amendments.

*Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell, and Matt Scott voted to support the motion. Board members Virginia Plummer, Nancy Ziegler and Jean T. Wilkinson were absent*

3. STATE PLANNING OFFICE / WEST OLD TOWN LANDFILL (Overview of Project – Distribution of Record) – no vote to be taken  
Staff: Cynthia S. Bertocci, BEP Executive Analyst  
Staff: Cyndi Darling, Bureau of Remediation and Waste Management

This item will be rescheduled to the Board's September 16<sup>th</sup> regular meeting resulting in the unavailability of the record for distribution.

Next Regular Board Meeting – Thursday, September 2, 2004 – Holiday Inn / Ground Round, Augusta